

ASSEMBLY BILL

No. 762

Introduced by Assembly Member Mullin

February 25, 2015

An act to add Section 1596.951 to, and to amend and repeal Sections 1596.955 and 1596.956 of, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 762, as introduced, Mullin. Day care centers: integrated licensing.

Existing law, the California Child Day Care Facilities Act, provides for the licensure and regulation of day care centers by the State Department of Social Services. Existing regulations require a separate license to be issued for each component of a combination center, and establishes teacher-child ratio requirements. Existing law requires the department to develop guidelines and procedures to permit licensed child day care centers serving infants or preschool age children to create a special optional toddler program component for children between 18 and 30 months of age, and requires the program to be considered an extension of the infant center or preschool license. Existing law makes it a misdemeanor to willfully or repeatedly violate any of these provisions or a rule or regulation promulgated under these provisions.

This bill would require the department to adopt regulations, on or before January 1, 2018, to develop and implement an integrated license for a day care center serving children from birth to kindergarten. The bill would require an applicant for the integrated license to meet specified basic requirements in addition to the current safety and care standards, including, specified staff-child ratios and requirements pertaining to indoor and outdoor activity space. The bill would also

repeal the provisions relating to a toddler program component on January 1, 2018. By changing the definition of an existing crime, the bill would impose a state-mandated program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) In the 1970's, California led the nation in the creation of its
4 licensing system for community care facilities, and pioneered
5 recognition of the special needs of infants and toddlers with a
6 license distinct from preschool-age care.

7 (b) While the standard of care in California statute remains
8 appropriate, the bifurcation of early care licensing in California
9 into two separate licenses is unnecessary and problematic.

10 (c) Many states now mandate the standard required in California,
11 but without dual-licensing. California is one of only two states in
12 the country that employ a separate infant-toddler license. Other
13 states employ a single license for early childhood centers,
14 mandating developmentally appropriate standards based on the
15 age of the children served.

16 (d) Even in California, family day care homes are not subject
17 to the dual license requirement. Only private fee, state and federally
18 funded child day care facilities are subject to the dual license
19 requirement.

20 (e) It is the intent of the Legislature that all of the following are
21 required under a new integrated licensing structure:

22 (1) Children shall be grouped together by their appropriate
23 developmental levels and appropriate staff-child ratio and group
24 size regulations shall be followed.

25 (2) Children shall transition from age appropriate classrooms
26 or program spaces when their developmental level is appropriate
27 for such a move.

1 (3) A child's chronological age and the entire group's need shall
2 also be considering factors for such moves.

3 (4) All children shall be supervised appropriately by teachers
4 and aids with appropriate staff qualifications. Toddlers may be
5 grouped with either infants or preschoolers as long as the
6 requirements applicable to the youngest age group in the group
7 are followed.

8 SEC. 2. Section 1596.951 is added to the Health and Safety
9 Code, to read:

10 1596.951. (a) The following definitions shall apply to this
11 section:

12 (1) "Young infant" means a child 0 to 9 months of age

13 (2) "Mobile infant" means a child 8 to 18 months of age.

14 (3) "Toddler" means a child 16 to 36 months of age.

15 (4) "Preschooler" means a child 3 years of age to kindergarten
16 age.

17 (5) "Mixed-age groups" means a group including toddlers and
18 infants or toddlers and preschoolers in which the requirements for
19 the youngest age group apply.

20 (6) "Transition from classroom or program space" means group
21 placement that is determined by a child's developmental readiness
22 within three months before or after the child's birth date, except
23 for a child with developmental delays, and the need of the entire
24 group of children.

25 (7) "Combination center" means a combination of child care
26 center and schoolage child care center or child care center for
27 mildly ill children that is owned and operated by one licensee at
28 a common address.

29 (b) The department shall adopt regulations, on or before January
30 1, 2018, to develop and implement an integrated license for a day
31 care center serving children from birth to kindergarten. In addition
32 to the current safety and care standards, an applicant for the
33 integrated license shall meet all of the following basic
34 requirements:

35 (1) Group placement shall be determined by a child's
36 developmental readiness within three months before or after the
37 child's birth date, except for a child with developmental delays,
38 and the needs of the entire group of children.

39 (2) The day care center shall observe the following staffing
40 ratios at the center:

1 (A) The following ratio requirements shall apply to young
2 infants and mobile infants:

3 (i) There shall be a ratio of one teacher for every four infants
4 in attendance.

5 (ii) An aide may be substituted for a teacher if both of the
6 following conditions are met:

7 (I) There is a fully qualified teacher directly supervising no
8 more than 12 infants.

9 (II) The aide is responsible for the direct care and supervision
10 of a group of no more than four infants.

11 (iii) If children are engaged in activities away from the center,
12 there shall be a minimum of one teacher for every two infants in
13 attendance. This ratio may include authorized representatives of
14 infants in care and adult volunteers to supplement the staff-infant
15 ratio.

16 (iv) The director and the assistant director may be counted in
17 the staff-infant ratio if he or she is actually working with infants.

18 (v) There shall be one teacher to visually observe every 12
19 sleeping infants if the remaining staff necessary to meet the ratios
20 specified in this section are immediately available at the center.

21 (vi) An aide who is 18 years of age or older, and who meets the
22 requirements in clause (ii), may visually observe 12 sleeping infants
23 in place of a teacher.

24 (vii) A center shall provide for the overlap of staff for different
25 shifts so that continuity of care is assured.

26 (B) The following requirements shall apply to toddlers:

27 (i) There shall be a ratio of one teacher for every six children
28 in attendance.

29 (ii) An aide who is participating in on-the-job training may be
30 substituted for a teacher if the aide is directly supervised by a
31 teacher.

32 (iii) The maximum group size with two teachers, or one teacher
33 and one aide, shall not exceed 12 toddlers.

34 (iv) There shall be one teacher to visually observe every 12
35 sleeping toddlers if the remaining staff necessary to meet the ratios
36 and group size requirements in this section are immediately
37 available at the center.

38 (v) An aide who is 18 years of age or older, and who meets the
39 requirements in clause (ii), may visually observe 12 sleeping
40 toddlers in place of a teacher.

1 (vi) A center shall provide for overlap of staff for different shifts
2 so that continuity of care is assured.

3 (C) The following requirements shall apply to preschoolers:

4 (i) There shall be a ratio of one teacher for every 12 children in
5 attendance.

6 (ii) The number of children in attendance shall not exceed
7 licensed capacity.

8 (iii) If children are engaged in activities outside of the center,
9 there shall be one teacher for every 12 children. However, because
10 activities outside of the center pose additional hazards to children,
11 the center shall make an effort to have a ratio of one adult for every
12 6 children through the use of adult volunteers.

13 (iv) The center may use aides in a teacher-child ratio of one
14 teacher and one aide for 15 preschoolers in attendance.

15 (v) A teacher-child ratio of one teacher supervising 24 napping
16 children is permitted if the remaining teachers necessary to meet
17 the overall ratio and group size requirements are immediately
18 available at the center.

19 (vi) A teacher aide who is 18 years of age or older, and who
20 meets the requirements listed above may supervise 24 napping
21 children in place of a teacher. There shall be provision for overlap
22 of staff for different shifts so that continuity of care is assured.

23 (D) The following requirements shall apply to mixed age groups:

24 (i) If groups of children of two age categories are commingled
25 and the younger age group exceeds 50 percent of the total number
26 of children present, the ratios for the entire group must meet the
27 ratios required for the younger age group.

28 (ii) If the younger age group does not exceed 50 percent of the
29 total number of the children present, the teacher-child and
30 adult-child ratios shall be computed separately for each group.

31 (3) The day care center shall observe the following staffing
32 ratios at the center during water activities:

33 (A) The requirements for young infants and mobile infants are
34 as follows:

35 (i) A ratio of one adult to two infants shall be maintained during
36 activities in or near any body of water.

37 (ii) A ratio of one staff member to every four infants shall be
38 maintained during activities in or near any container of water that
39 a child can get into and get out of unassisted. This shall include,
40 but not be limited to, wading pools, basins, or water trays.

(iii) The ratio may include authorized representatives of infants in care and adult volunteers to supplement the staff-infant ratio.

(B) The requirements for toddlers are as follows:

(i) A ratio of one adult to two toddlers shall be maintained during activities in or near any body of water.

(ii) A ratio of one staff member to every four toddlers shall be maintained during activities in or near any container of water that a child can get into and get out of unassisted. This shall include, but not be limited to, wading pools, basins, or water trays.

(iii) This ratio may include authorized representatives of toddlers in care and adult volunteers to supplement the staff-toddler ratio.

(C) The requirements for preschoolers are as follows:

(i) There shall be at least one adult, who has a valid water-safety certificate on file at the center, present.

(ii) During water activities in or near any of the following bodies of water, a ratio of not less than one adult, including teachers, to every six children, or fraction thereof, shall be maintained during water activities in or near any of the following bodies of water:

(I) Swimming pool.

(II) Any portable pool with sides so high that children using the pool cannot step out unassisted by a person or device, including, but not limited to, a ladder.

(III) Potentially dangerous natural bodies of water including, but not limited to, oceans, lakes, rivers, and streams.

(iii) Lifeguards or personnel supervising anyone other than center children at the water activity site shall not be included in this ratio.

(D) The requirements for mixed, age groups are as follows:

(i) If groups of children of two age categories are commingled and the younger age group exceeds 50 percent of the total number of children present, the ratios for the entire group shall meet the ratios and requirements for the younger age group.

(ii) If the younger age group does not exceed 50 percent 50 of the total number of the children present, the teacher-child and adult-child ratios shall be computed separately for each group.

(4) The day care center shall maintain the staff-child ratio for all age groups specified in paragraph (2) while transporting children in motor vehicles. The ratio shall be maintained whether the vehicle is moving or parked. Children in motor vehicles shall have constant

1 adult supervision and shall not be left unattended under any
2 circumstances.

3 (5) The outdoor activity space at the day care center shall meet
4 all of the following requirements:

5 (A) Except as provided in subparagraph (D), the outdoor activity
6 space for one age group shall be physically separate from space
7 used by the other age groups.

8 (B) The outdoor activity space shall be equipped with a variety
9 of age-appropriate toys and equipment.

10 (C) For infants, placement of playpens shall not create hazards
11 to other infants or adults in the play area.

12 (D) (i) If groups of children of two age categories are
13 commingled and the younger age group exceeds 50 percent of the
14 total number of children present, the age-appropriate toys and
15 equipment shall meet the requirements for the younger age group.

16 (6) The indoor activity space at the day care center shall meet
17 all of the following requirements:

18 (A) The requirements for young infants and mobile infants are
19 as follows:

20 (i) Indoor activity space for infants shall be physically separate
21 from space used by toddlers and preschoolers.

22 (ii) The center may use moveable walls or partitions to separate
23 the age groups in the same room if each group has the total amount
24 of square footage for indoor activity space required by this chapter.

25 (iii) Moveable walls or partitions, if used, shall be at least four
26 feet high, constructed of sound-absorbing material, and designed
27 to minimize the risk of injury to infants.

28 (iv) The calculation of indoor activity space for infants shall
29 not include space designated and used for cribs.

30 (v) The sleeping area for infants shall be physically separate
31 from the indoor activity space. This separation shall be
32 accomplished as specified in clause (iii).

33 (vi) The various child care center components in a combination
34 center may share office space, food preparation space, storage
35 space and any other general-purpose space.

36 (vii) The indoor activity space shall be equipped with a variety
37 of age-appropriate washable toys and equipment.

38 (B) The toddler and preschool programs shall be conducted in
39 areas physically separate from those used by older or younger
40 children, except when a planned activity is being conducted

1 between two or more age groups. A plan to alternate use of outdoor
2 play space is allowed.

3 (C) If groups of children of two age categories are commingled
4 and the younger age group exceeds 50 percent of the total number
5 of children present, the indoor activity space requirements for the
6 entire group shall meet the indoor activity space requirements
7 required for the younger age group.

8 SEC. 3. Section 1596.955 of the Health and Safety Code is
9 amended to read:

10 1596.955. (a) The department shall develop guidelines and
11 procedures to permit licensed child day care centers serving
12 preschool age children to create a special program component for
13 children between the ages of 18 months and 30 months. This
14 optional toddler program shall be subject to the following basic
15 conditions:

16 (1) An amended application is submitted to and approved by
17 the department.

18 (2) No child shall be placed in the preschool program before
19 the age of 30 months without parental permission. A child who is
20 more than 30 months of age may participate in the toddler program
21 with parental permission.

22 (3) Parents give permission for the placement of their children
23 in the toddler program.

24 (4) A ratio of six children to each teacher is maintained for all
25 children in attendance at the toddler program. An aide who is
26 participating in on-the-job training may be substituted for a teacher
27 when directly supervised by a fully qualified teacher.

28 (5) The maximum group size, with two teachers, or one fully
29 qualified teacher and one aide, does not exceed 12 toddlers.

30 (6) The toddler program is conducted in areas separate from
31 those used by older or younger children. Plans to alternate use of
32 outdoor play space may be approved to achieve separation.

33 (7) All other preschool regulations are complied with.

34 (b) The toddler program shall be considered an extension of the
35 preschool license, without the need for a separate license.

36 (c) The department shall immediately prepare proposed
37 regulations for public hearing which would consider the foregoing
38 basic conditions as well as any additional health and safety
39 safeguards deemed necessary for this age group.

1 (d) The guidelines in subdivision (a) shall remain in force and
2 effect only until regulations implementing this section are adopted
3 by the department.

4 (e) *This section shall remain in effect only until January 1, 2018,*
5 *and as of that date is repealed, unless a later enacted statute, that*
6 *is enacted before January 1, 2018, deletes or extends that date.*

7 SEC. 4. Section 1596.956 of the Health and Safety Code is
8 amended to read:

9 1596.956. (a) The department shall develop guidelines and
10 procedures to authorize licensed child day care centers serving
11 infants to create a special program component for children between
12 the ages of 18 months and 30 months. The optional toddler program
13 shall be subject to the following basic conditions.

14 (1) An amended application shall be submitted to and approved
15 by the department.

16 (2) No child under the age of 18 months shall be moved into
17 the toddler program. A child who is more than 18 months of age
18 shall not be required to be in the toddler program.

19 (3) Parents shall give permission for the placement of their
20 children in the toddler program.

21 (4) A ratio of six children to each teacher shall be maintained
22 for all children in attendance at the toddler program. An aide who
23 is participating in on-the-job-training may be substituted for a
24 teacher when directly supervised by a fully qualified teacher.

25 (5) The maximum group size, with two teachers, or one fully
26 qualified teacher and one aide, shall not exceed 12 toddlers.

27 (6) The toddler program shall be conducted in areas separate
28 from those used by older or younger children. Plans to alternate
29 use of outdoor play space may be approved to achieve separation.

30 (7) All other infant center regulations shall be complied with.

31 (b) The toddler program shall be considered an extension of the
32 infant center license, without the need for a separate license.

33 (c) The department shall immediately prepare proposed
34 regulations for public hearing that would consider the foregoing
35 basic conditions as well as any additional health and safety
36 safeguards deemed necessary for this age group.

37 (d) The guidelines in subdivision (a) shall remain in force and
38 effect only until regulations implementing this section are adopted
39 by the department.

1 (e) *This section shall remain in effect only until January 1, 2018,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2018, deletes or extends that date.*

4 SEC. 5. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.